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 Attorneys for Defendant Northern Nevada Operating  
 Engineers Health and Welfare Trust Fund

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JUN - 7 2016	
CLERK US DISTRICT COURT DISTRICT OF NEVADA	
By: _____	DEPUTY

5  
 6 UNITED STATES DISTRICT COURT

7 FOR THE DISTRICT OF NEVADA

8  
 9 GOLIGHTLY & VANNAH, PLLC,

Case No. 3:16-cv-00144-MMD-VPC

10 Plaintiff,

11 vs.

**JOINT CASE MANAGEMENT  
REPORT**

12 HAL HAMLETT, an individual; JESSICA  
 13 HAMLETT, an individual; JAIDYN  
 14 HAMLETT, a minor; JONATHAN HOLLAND,  
 a minor; REGIONAL EMERGENCY  
 15 MEDICAL SERVICE AUTHORITY;  
 CHRISTIAN PURGASON, D.O. dba  
 16 NORTHERN NEVADA EMERGENCY  
 PHYSICIANS; TJ ALLEN, LLC; RENOWN  
 17 REGIONAL MEDICAL CENTER; RENO  
 ORTHOPAEDIC CLINIC, LTD., DR.  
 CHRISTENSEN; RENO RADIOLOGICAL  
 18 ASSOCIATES, CHARTERED; ROBERT G.  
 BERRY, JR., M.D. PROFESSIONAL  
 CORPORATION dba ORTHOPEDIC  
 19 REHABILITATION SPECIALISTS OF NV;  
 UNIVERSAL SERVICES, INC.; OPERATING  
 20 ENGINEERS FUNDS, INC. dba OPERATING  
 ENGINEERS HEALTH & WELFARE TRUST  
 21 FUND; DOE Defendants I through X; ROE  
 CORPORATION Defendants XI through XX,

22 Defendant.

23 \_\_\_\_\_ /  
 24 Defendants Northern Nevada Operating Engineers Health & Welfare Trust Fund, named in  
 25 the Complaint in Interpleader as Operating Engineers Funds, Inc. dba Operating Engineers Health  
 26 & Welfare Trust Fund, Renown Regional Medical Center, and Universal Services, Inc., by and  
 27 through their undersigned counsel, and TJ Allen, LLC, in pro per, pursuant to Federal Rule of Civil  
 28 Procedure 16, Local Rule 16-2, and the Minutes of the Court dated May 17, 2016, hereby submit the

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1 following Joint Case Management Report. This Joint Case Management Report was forwarded to  
2 Golightly & Vannah for review and comment, but no response has been received.

3 1. A short statement of the nature of the case, including a description of each claim and  
4 defense.

5 This is an interpleader action filed by Plaintiff law firm Golightly & Vannah, PLLC  
6 ("Plaintiff"). Plaintiff alleges that it obtained settlement proceeds in personal injury claims asserted  
7 on behalf of clients, Hal Hamlett, Jessica Hamlett, Jaidyn Hamlett, and Jonathan Holland, against  
8 a third-party tortfeasor. Plaintiff seeks (1) to interplead the alleged total settlement proceeds of  
9 \$24,440.00; (2) payment to it of \$8,491.66 for attorneys' fees and costs; and (3) a determination of  
10 which of the Defendants are entitled to a portion of the settlement proceeds.

11 Defendant TJ Allen appearing in pro per has alleged the following:

12 "This letter is to serve as my answer to Case No. CV16-00245. My office provided  
13 medical care and treatment to Hal Hamlett who's balance is \$1,907.00, Jessica Hamlett who's  
14 balance is \$2,255.00 and Jonathan Holland who's balance is \$2,279.00 for injuries they sustained  
15 in a motor vehicle accident on 08/02/2013. I believe my treatment to be reasonable for his injuries.  
16 In the interest of good will, I am willing to reduce their balances by 50% plus expenses of \$213.00  
17 or whatever the court deems reasonable and fair."

18 Defendant Renown Regional Medical Center has alleged the following primary Affirmative  
19 Defenses:

20 1. Renown alleges that it has a general lien for medical services provided to  
21 Defendants Hal Hamlett and Jaidyn Hamlett which should take precedence and priority over all other  
22 medical liens alleged by the other healthcare providers named as Defendants herein against the funds  
23 on deposit with this Court.

24 2. Plaintiffs have failed to perfect their attorney's lien in accordance with the  
25 provisions of NRS 18.015, and are not entitled to the recovery Plaintiff has requested herein.

26 Defendant Northern Nevada Operating Engineers Health & Welfare Trust Fund,  
27 ("Defendant" or the "Trust Fund") named in the Complaint in Interpleader as Operating Engineers  
28 Funds, Inc. dba Operating Engineers Health & Welfare Trust Fund has alleged the following primary

1 Affirmative Defenses:

2 1. Defendant Trust Fund's Summary Plan Description provides it a contractual  
3 right to subrogation against third-party payments. Pursuant to the Summary Plan Description, the  
4 Trust Fund has a lien against the settlement proceeds and is entitled to payment of its lien in full  
5 without reduction because it takes precedence and priority over all other medical and attorney liens.

6  
7 2. Defendant Trust Fund's subrogation claim arises under federal law, Section  
8 502(a)(3) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), 29  
9 U.S.C. 1132(a)(3). Pursuant to ERISA § 502(e)(1), Defendant Trust Fund's claim is subject to the  
10 exclusive jurisdiction of the federal courts. 29 U.S.C. §1132(e)(1).

11 3. Under governing federal statutes and case law Plaintiff's claimed charging lien  
12 is pre-empted by ERISA and does not takes priority over Defendant Trust Fund Trust Fund's  
13 subrogation claim.

14 4. Plaintiff has failed to perfect its attorney's lien in accordance with the  
15 provisions of NRCPP 18.015 and is not entitled to the recovery Plaintiff has requested.

16 5. Under the law and facts and circumstances presented, Plaintiff is not entitled  
17 to the relief it seeks nor is Plaintiff entitled to a discharge from this action.

18 Defendant Universal Services, Inc. has alleged the following primary Affirmative Defenses:

19 1. Plaintiff has failed to state a claim of action against answering Defendant upon  
20 which relief can be granted.

21 2. Defendant Universal Services, Inc. holds a lien against any personal injury  
22 settlement proceeds of Jessica Hamlett for the full amount of the billed charges and costs originally  
23 incurred. Said billed charges and costs incurred by Jessica Hamlett were for medical care and  
24 services provided to her in direct relation to the injury(ies) Jessica Hamlett sustained as a result of  
25 an automobile accident.

26 3. Answer Defendant alleges that it has been necessary to employ the services  
27 of The Bourassa Law Group to defend this action, and a reasonable sum should be allowed to  
28 answering Defendant for attorney's fees, together with costs expended in this action, pursuant to the

1 Medical Lien Subrogation Contract executed by Jessica Hamlett.

2 Defendants in proper person Hal Hamlett, Jessica Hamlett, Jaidyn Hamlett, and Jonathan  
3 Holland have alleged the following primary Affirmative Defenses:

4 1. Defendants Hal Hamlett, Jessica Hamlett, Jaidyn Hamlett, and Jonathan  
5 Holland alleges that the allegations contained in Plaintiff's Complaint fail to state a cause of action  
6 against Defendant upon which relief can be granted.

7 2. Plaintiff's actions constitute a waiver and release of these Defendants'  
8 obligation under any agreement between them.

9 3. Whatever injuries and damages were sustained by Plaintiff as a result of the  
10 alleged acts of these Defendants were caused in whole or in part or were contributed to by reasons  
11 of negligence of Plaintiff.

12 4. Plaintiff's Complaint is barred by the Doctrine of Estoppel and Laches.

13 5. Any of the damages allegedly suffered by the Plaintiff were caused by the  
14 actions of a third party and not by any actions of these Defendants.

15 6. Plaintiff is not entitled to any relief under this Complaint because of its failure  
16 to mitigate damages.

17 2. A description of the principal factual and legal disputes in the case.

18 Principal Factual Issues:

19 (a) What is the total recovery from all sources on behalf of Hal Hamlett, Jessica  
20 Hamlett, Jaidyn Hamlett, and Jonathan Holland?

21 (b) What is the current outstanding dollar amount of each Defendant's lien or claim  
22 or right to recover?

23 (c) What is the amount of Plaintiff's claimed fees and costs in the tort action and in  
24 this Interpleader Action?

25 Principal Legal Issues:

26 (a) Have each of the individual Defendants perfected their lien or claim or right to  
27 recover?

28 (b) Have any of the individual Defendants waived their lien or claim or right to

1 recover?

2 (c) Do any of the individual Defendants have a priority lien or claim or right to  
3 recover?

4 (d) Has the Plaintiff perfected their attorney's lien?

5 (e) Is Plaintiff entitled to all its claimed fees and costs in the tort action and/or in this  
6 Interpleader Action?

7 (f) Are any Individual Defendants entitled to their fees and costs in responding to  
8 this Interpleader Action?

9 (g) May TJ Allen *in propria persona* represent TJ Allen, LLC?

10 **3. The jurisdictional bases for the case, citing specific jurisdictional statutes.**

11 This action is a civil action of which this Court has original jurisdiction under 28 U.S.C. §  
12 1331, and is one which may be removed to this Court by Defendant Northern Nevada Operating  
13 Engineers Health & Welfare Trust Fund ("Defendant" or the "Trust Fund") named in the Complaint  
14 in Interpleader as Operating Engineers Funds, Inc. dba Operating Engineers Health & Welfare Trust  
15 Fund pursuant to the provisions of 28 U.S.C. § 1441(a).

16 Defendant is a multi-employer welfare benefit trust established in accordance with the  
17 provisions of Section 302(c)(5) of the Labor-Management Relations Act of 1947, as amended, 29  
18 U.S.C. § 186(c)(5). Defendant is an employee welfare benefit plan within the definition of ERISA  
19 § 3(1). 29 U.S.C. § 1002(1). Defendant's principal place of business is within this District in Reno,  
20 Nevada.

21 To determine whether federal question jurisdiction exists over an interpleader action, the  
22 court employs the declaratory judgment standard. "Whether the action is styled as one for  
23 interpleader or for declaratory relief, the cause of action litigated is not that of the plaintiff but that  
24 of the defendants." *Morango Band of Mission Indians v. California State Bd. of Equalization*, 858  
25 F.2d 1376, 1384 (9<sup>th</sup> Cir. 1988). "Federal jurisdiction over both types of actions is proper if the  
26 causes(s) of action anticipated by the plaintiff's suit would arise under federal law." *Id.* An ERISA  
27 trust fund's subrogation claim arises under federal law pursuant to ERISA § 502(a)(3), 29 U.S.C.  
28 § 1132(a)(3). *Sereboff v. Mid Atlantic Medical Services, Inc.*, 547 U.S. 356, 369 (2006). Therefore,

1 an interpleader action that seeks to resolve an ERISA trust fund's subrogation claim triggers federal  
2 jurisdiction. As stated in *Lincoln General Ins. Co. v. State Farm Mutual Automobile Ins. Co.*, 425  
3 F.Supp.2d 738, 743 (E.D. Va. 2006):

4 "[I]t should also be noted that there is independent federal jurisdiction over this  
5 action under ERISA. This is so because NTCA's subrogation claim against Lincoln  
6 General is plainly governed by the provisions of that federal statute. Indeed, the  
7 Fourth Circuit has held that where, as here, an ERISA plan asserts a subrogation right  
8 to reimbursement, the plan may file that action in federal court pursuant to Section  
9 502(a)(3) of ERISA ..."

10 "Congress has clearly manifested an intent to make causes of action within the scope of the civil  
11 enforcement provisions of § 502(a) removable to federal court." *Metropolitan Life Ins. Co. v.*  
12 *Taylor*, 481 U.S. 58, 66, 107 S.Ct. 1542, 95 L.Ed.2d 55 (1987).

13 Under the well-pleaded complaint rule the interpleader action does not allege a federal cause  
14 of action on its face. "One corollary of the well-pleaded complaint rule developed in the case law,  
15 however, is that congress may so completely pre-empt a particular area that any civil complaint  
16 raising this select group of claims is necessarily federal in character." *Metropolitan Life Ins. Co. v.*  
17 *Taylor*, 481 U.S. 58, 63-64, 107 S.Ct. 1542, 95 L.Ed.2d 55 (1987). "That is, '[o]n occasion ... the  
18 pre-emptive force of a statute is so "extraordinary" that it "converts an ordinary state common-law  
19 complaint into one stating a federal claim for purposes of the well pleaded complaint rule." *Harris*  
20 *v. Provident Life and Accident Ins. Co.*, 26 F.3d 930, 934 (9<sup>th</sup> Cir. 1994) (quoting *Caterpillar Inc.*  
21 *v. Williams*, 482 U.S. 386, 393, 107 S.Ct. 2425, 96 L.Ed.2d 318 (1987)). Here the pre-emptive force  
22 of ERISA is so "extraordinary" that it converts the state court interpleader action to resolve an  
23 ERISA trust fund's subrogation claim into a federal claim for purposes of the well-pleaded complaint  
24 rule. This case therefore arises under the laws of the United States and is removable to federal court  
25 by the Defendant Trust Fund.

26 **4. Any parties who have not been served and an explanation why they have not been  
27 served; and any parties which have been served but have not answered or otherwise  
28 appeared.**

All named parties have been served. The following Defendants have failed to answer or  
otherwise appear and the time to do so has passed:

- Regional Emergency Medical Service Authority;

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- 1 • Christian Purgason, D.O. dba Northern Nevada Emergency Physicians;
- 2 • Reno Orthopaedic Clinic, Ltd., Dr. Christensen;
- 3 • Reno Radiological Associates, Chartered;
- 4 • Robert G. Berry, Jr., M.D. Professional Corporation dba Orthopedic
- 5 Rehabilitation Specialists of NV;
- 6 **5. A statement whether any party expects to add additional parties to the case or**  
7 **otherwise amend the pleadings.**  
8 At present, none of the parties anticipate adding additional parties or amending their  
9 pleadings.  
10 **6. A list of contemplated motions and a statement of issues to be decided by these motions.**  
11 No motions are contemplated at this time.  
12 **7. Whether there are any pending motions that may affect the parties' abilities to comply**  
13 **with a case management order, including a brief description of those motions.**  
14 No motions are pending at this time.  
15 **8. The status of related cases pending before other courts or other judges of this court.**  
16 None.  
17 **9. Any further supplemental discussion of necessary discovery, including:**  
18 **a. The extent, nature, and location of discovery anticipated by the parties;**  
19 **b. Suggested revisions, if any, to the discovery limitations imposed by the Federal**  
20 **Rules of Civil Procedure and LR 26(1)(e);**  
21 **c. The number of hours permitted for each deposition, unless extended by the**  
22 **parties.**  
23 None at the present time.  
24 **10. A discussion of any issues relating to the disclosure or discovery of electronically stored**  
25 **information ("ESI"), including the form or forms in which it should be produced.**  
26 As of the present time, no issues have arisen relating to the disclosure or discovery of  
27 electronically stored information.  
28 **11. A discussion of any issues related to claims of privilege or work product.**  
As of the present time, no issues have arisen relating to claims of privilege or work product.  
**12. Unless the Court has already approved a discovery plan and scheduling order, the**  
**parties shall include proposed dates for each of the following pursuant to Local Rule**



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26-1:

- a. A deadline for completion of discovery (LR 26-1(e)(1)): September 19, 2016
- b. A deadline for amending the pleadings and adding parties (LR 26-1(e)(2)): June 21, 2016
- c. Dates for complete disclosure of expert testimony (FRCP 26(a)(2)(A)-(C) and LR26-1(e)(3): The date for disclosures concerning experts shall be July 21, 2016. The date for disclosures respecting rebuttal experts shall be August 22, 2016.
- d. A deadline for the filing of dispositive motions (LR 26-1(e)(4)): October 19, 2016
- e. A date by which the parties will file the joint pretrial order (LR26-1(e)(5)): November 18, 2016

The deadlines submitted herein are in compliance with LR26-1(c).

13. If this is a patent case, the parties shall review the Local Rules of Practice for Patent Cases LR 16.1-1 through 16.1-21 and include proposed dates for all required disclosures, statements, and claim construction briefing pursuant to the attached chart.

The action herein is not a patent case.

14. Whether a jury trial has been requested and whether the request for a jury trial is contested (if the request is contested, set forth the reasons).

No party has demanded a jury.

15. The estimated length of trial and any suggestions for shortening the trial.

The parties estimate that one (1) day may be necessary for the trial.

16. The prospects for settlement, including any request of the court for assistance in settlement efforts.

The nature of this action calls for a speedy and inexpensive settlement. The parties request the court's timely assistance in reaching a settlement before the parties expend money on discovery, motion practice, or trial.

17. Any other matters that will aid the court and parties in resolving this case in a just, speedy, and inexpensive manner as required by Fed.R.Civ.P. 1.

It is suggested that any lien or claim or right to recover of the Defendants which have failed

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1 to timely answer or otherwise appear (see item #4 above) should be deemed waived.

2 DATED this 26<sup>th</sup> day of May, 2016.

3 JENKINS LAW FIRM  
4 Attorneys for Defendant Northern Nevada Operating  
5 Engineers Health and Welfare Trust Fund

6 By: 

NATHAN M. JENKINS  
1895 Plumas Street, Suite 2  
Reno, NV 89509

9 DATED this 26<sup>th</sup> day of May, 2016.

10 MAUPIN, COX & LeGOY  
11 Attorneys for Defendant Renown Regional Medical Center

12 By: /s/ Paul J. Anderson

13 PAUL J. ANDERSON (NV Bar 709)  
14 KIM G. ROWE (NV Bar 1962)  
15 4785 Caughlin Parkway  
16 Reno, NV 89519

17 DATED this 26<sup>th</sup> day of May, 2016.

18 THE BOURASSA LAW GROUP, LLC  
19 Attorneys for Defendant Universal Services, Inc.

20 By: /s/ Trent L. Richards

21 MARK J. BURASSA, ESQ. (NV Bar 7999)  
22 TRENT L. RICHARDS, ESQ. (NV Bar 11448)  
23 8668 Spring Mountain Road, Suite 101  
24 Las Vegas, NV 89117

25 DATED this 26<sup>th</sup> day of May, 2016.

26 DEFENDANT TJ ALLEN, LLC, in pro per

27 By: /s/ T.J. Allen

28 TJ ALLEN, LLC  
1475 Terminal Way, Suite A4  
Reno, NV 89502  
775-770-2225

IT IS SO ORDERED

  
9 U.S. MAGISTRATE JUDGE

DATED: June 7, 2016

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**CERTIFICATE OF SERVICE**

I certify that I am an employee of JENKINS LAW FIRM and that on this date the within document entitled **JOINT CASE MANAGEMENT REPORT** was electronically filed with the Clerk of the Court using the CM/ECF system, which will automatically e-serve the same on the attorney of record set forth below:

Robert D. Vannah, Esq.,  
L. Dipaul Marrero II, Esq.  
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Paul J. Anderson, Esq.  
Kim G. Rowe, Esq.  
Maupin, Cox & LeGoy  
PO Box 30000  
Reno, NV 89520  
*Attorneys for Defendant Renown Regional Medical Center*

and that on this date I deposited for mailing at Reno, Nevada a true copy of the within document addressed to:

Regional Emergency Medical Services  
Authority  
Lisa Cote  
450 Edison Way  
Reno, NV 89502

Michele Calkins, PARASEC  
Resident Agent  
Reno Radiological Associates Chartered  
318 N Carson Street, #208  
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Linda Haering, agent for  
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DATED this 26 day of May, 2016.

  
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